

Flanagan, Sarah

From: O'Toole, James <james.otoole@bipc.com>
Sent: Wednesday, April 20, 2016 5:42 PM
To: Flanagan, Sarah
Cc: Duke K. McCall III (Duke.McCall@bingham.com)
Subject: RE: LPRSA Special Notice Letter of March 31, 2016

Thanks Sarah

From: Flanagan, Sarah [mailto:Flanagan.Sarah@epa.gov]
Sent: Wednesday, April 20, 2016 5:40 PM
To: O'Toole, James
Cc: Duke K. McCall III (Duke.McCall@bingham.com)
Subject: RE: LPRSA Special Notice Letter of March 31, 2016

We note your request. Thank you.

-Sarah

Sarah P. Flanagan
Office of Regional Counsel, NJ Superfund Branch
USEPA, Region 2
290 Broadway, 17th Floor
New York, NY 10007
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From: O'Toole, James [mailto:james.otoole@bipc.com]
Sent: Wednesday, April 20, 2016 5:33 PM
To: Flanagan, Sarah <Flanagan.Sarah@epa.gov>
Cc: Duke K. McCall III (Duke.McCall@bingham.com) <Duke.McCall@bingham.com>
Subject: LPRSA Special Notice Letter of March 31, 2016

Dear Ms. Flanagan:

I am writing to you on behalf of the Essex County Improvement Authority ("ECIA") in connection with its court ordered obligation to indemnify and defend Celanese Ltd. ("Celanese") for alleged environmental liabilities in the Lower Passaic River related to a former Celanese facility located at 354 Doremus Avenue, Newark N.J. ("Doremus Site"). While the ECIA and Celanese continue to deny alleged Doremus Site environmental liabilities, the ECIA has stepped into Celanese's shoes as a current CPG member directly responsible for Celanese's Doremus Site RI/FS obligations.

Celanese and its former Doremus Site were identified in Deputy Director Nicoletta Di Forte's letter of March 31, 2016, regarding USEPA's Notice of Potential Liability Under 42 U.S.C. §9607(a) for the Diamond Alkali Superfund Site, lower 8.3 miles of the Lower Passaic River. In that regard, Deputy Director Di Forte advised of USEPA's intent to provide separate notice of the opportunity to discuss a cash-out settlement at a later date.

As indemnitor to Celanese for alleged CERCLA liabilities solely associated with the Doremus Site, the ECIA is requesting to be included in future agency cash-out discussions. Without admitting liability, the ECIA believes that both it and

Celanese are eligible for de minimis treatment in connection with the Doremus Site. The ECIA requests the opportunity to participate in good faith in the agency's proposed cash-out settlement process. Under separate cover, I will be providing a more formal written response to Deputy Di Forte's special notice letter.

Regards

Jim O'Toole

James O'Toole
Shareholder/Energy & Environmental
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Buchanan Ingersoll & Rooney PC

KNOW GREATER PARTNERSHIP

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